

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

KELWIN DEWAYNE ADAMS

PLAINTIFF

v.

Civil No. 06-3074

ALVIN DALE BOLEN; Transport
Officer; EDDIE WHITMIRE; Deputy;
DONALD KOPPENHAVENER, Investigator; and
BRIAN STOCKTON, Jail Administrator, all
of the Searcy County Detention Center

DEFENDANTS

O R D E R

Defendants filed a motion for summary judgment (Doc. 28). To assist plaintiff in responding to the motion for summary judgment, the undersigned is propounding a questionnaire. The court will consider plaintiff's response to the questionnaire in issuing a report and recommendation on the motion for summary judgment.

For this reason, Kelwin Dewayne Adams is hereby directed to complete, sign, and return the attached response to defendants' motion for summary judgment on or before **August 8, 2008**.

Plaintiff's failure to respond within the required period of time may subject this matter to dismissal for failure to comply with a court order.

IT IS SO ORDERED this 14th day of July 2008.

/s/ J. Marszewski

HON. JAMES R. MARSZEWSKI
UNITED STATES MAGISTRATE JUDGE

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RESPONSE TO SUMMARY JUDGMENT MOTION

TO: KELWIN DEWAYNE ADAMS

These questions and answers will serve as your response to defendants' motion for summary judgment. You may use additional sheets of paper in responding to these questions. You must file this response by **August 8, 2008**.

1. Please provide the dates of your incarceration at the Searcy County Detention Center (SCDC).

Answer:

2. Were you incarcerated there solely because of pending criminal charges?

Answer: Yes ____ No ____.

If you answered yes, please state if at any time during your incarceration you were convicted. If you were, please provide the date of your conviction.

If you answered no, please state the other reason you were incarcerated.

3. On October 27, 2006, at approximately 7:45 a.m., you allege Donnie Lee, a fellow inmate, began kicking the cell door and Jack Freeman, a fellow inmate, covered the camera, demanding to be let out of the cell.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

4. You allege Donald Koppenhavener and Alvin Bolen came to the cell door and aimed guns into the bean hole ordering everyone to get down on their stomachs with their

hands over their heads.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

5. You indicate you rolled over after being on your back. You state the other inmates complied with the order.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

6. Officials came into the cell and pressed guns against the two inmates heads and said if you move "I will blow your f----- head off."

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

7. No one put a gun to your head.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

8. You were handcuffed and before cuffing Donnie Lee's ankles you allege Koppenhavener aimed a shotgun in your face and repeated the statement that if you moved he would blow your head off.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

9. After one inmate was moved to the hallway, you allege Koppenhavener came back in the cell yelling at Freeman and then you talking about the case you had in Missouri. You asked Koppenhavener why he was talking to you.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

10. Koppenhavener then came over to handcuff you while you were still wrapped in your blanket. Forty-five minutes later Bolen came back in and uncuffed you and Freeman.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

11. You were locked down afterwards for four days without a shower.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 4.

12. You allege you mailed a letter to your family on October 30th dated the 27th, 28th, and 29th talking about this matter. You state Brian Stockton is in charge of all mail. Knowing these matters happen, you indicate Stockton covers them up. You indicate the

letter you mailed disappeared.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 6.

13. On October 13, 2006, at 4:05 p.m. you indicate Bolen took you to the recreation yard that has no cameras and let a fellow inmate, Clark Brown, Sr., hold his clip to his gun.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 6.

14. On October 16, 2006, at 9:15 p.m., you indicate Eddie Whitmire had his gun with him in the inmate recreation area.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 6.

15. On October 24, 2006, at 3:05 p.m. you state Koppenhavener had his gun with him in the inmates' area.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 6.

16. On October 30, 2006, you allege Bolen came back to the inmates' area with his gun to move Freeman to another county jail.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 6.

17. On October 27, 2006, at 3:00 p.m. you allege Bolen came to the inmates' recreation area with a gun and Nola Massey to pass out medication.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 6.

18. On November 19, 2006, at 11:00 p.m. you allege Whitmire came to the inmates' recreation area with a gun to pass out medication.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Complaint at page 6.

19. Please state in detail how you believe Bolen violated your federal constitutional rights.

Answer:

20. Please state in detail how you believe Whitmire violated your federal constitutional rights.

Answer:

21. Please state in detail how you believe Koppenhavener violated your federal constitutional rights.

Answer:

22. Please state in detail how you believe Stockton violated your federal constitutional rights.

Answer:

23(A). Please explain in detail why you believe Stockton interfered with your mail.

(B). During your incarceration at the SCDC had you sent and received other mail?

Answer: Yes _____ No _____.

If you answered yes, please state how often you had sent or received mail.

(C). Other than this one occasion had you ever had problems with your outgoing mail?

Answer: Yes No

If you answered yes, please state how often you had problems and how you knew you were having problems with your outgoing mail.

(D). How do you know your family did not receive the letter you put in the mail
October 30th and a family member simply misplaced it?

Answer:

(E). Were you able to send and receive legal mail without problems?

Answer: Yes _____ No _____.

If you answered no, please explain.

(F). Did you know of any other inmates having problems with their outgoing mail?

Answer: Yes _____ No _____.

If you answered yes, please identify the inmate by name and state the date the inmate had problems with his or her mail.

24. Do you contend a custom or policy of Searcy County was the moving force behind the alleged violation of your federal constitutional rights?

Answer: Yes _____ No _____.

If you answered yes, please explain in detail the custom or policy and how it operated to deprive you of your federal constitutional rights.

25. Did you suffer any physical injury on October 27, 2006?

Answer: Yes _____ No _____.

If you answered yes, explain in detail the physical injury you suffered and indicate who inflicted the injury on you. Also indicate how long it took you to recover from the injuries.

26. No excessive physical force was used against you on October 27, 2006.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

27. Under § 1983 an individual can be sued in their individual capacity or in their official capacity. A suit against an individual in their official capacity is the equivalent of a suit against the entity for which the individual works. Such a suit requires the showing of a

custom or policy. An individual capacity suit requires notice and subjects the person to liability in their personal capacity. Did you intend to sue the defendants in their official capacities, their individual capacities, or in both capacities?

Answer:

28. During your lock-down you had access to basic hygiene items such as soap and water.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

29. Except during the four day lock-down you were allowed to shower on a regular basis.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

30. You had adequate food, clothing, and drinking water during your lock-down.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

31. You suffered no physical injuries because of the conditions under which you were confined during the four days you were locked down following October 27, 2006.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, be specific describe in detail the injuries you suffered, the symptoms you experienced, whether you sought or received medical care, and how long it took you to recover from the injuries.

32. How do you believe your rights were violated by one or more of the defendants having a gun in the facility?

Answer:

Detail below any further response you would like to make to defendants' motion for summary judgment. If you have any exhibits you would like the court to consider, you may attach them to this response.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.

EXECUTED ON THIS _____ DAY OF _____ 2008.

KELWIN DEWAYNE ADAMS